



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1850
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,063	11/14/2000	Zheng Wang	60001.0070US01/MS136607.1	8944

27488 7590 01/30/2004

MERCHANT & GOULD
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

DAVIS, GEORGE B

ART UNIT	PAPER NUMBER
----------	--------------

2121

DATE MAILED: 01/30/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/11/2003

Applicant(s)

Wang et al

Examiner

George Davis

Group Art Unit

2121

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/10/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-46 is/are pending in the application.
- Of the above claim(s) 21-46 is/are withdrawn from consideration.
- ☒ Claim(s) 1-5, 9, 14, 15 and 19 is/are allowed.
- ☒ Claim(s) 6-8, 10-13, 16-18 and 20 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 2121

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 6-8, 10-13, 16-18 and 20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kathrow et al, U.S. Pat. No. 6393438B1.

As per claim 6, Kathrow discloses finding equivalent contents in portions of two versions of the program (abstract and figures 1-4), finding equivalent structure in the portions of the two versions (abstract and figures 1-4) and forming a match when a portion of one of the two versions is an equivalence to a portion of the other of the two versions (abstract and figures 1-4).

As per claim 7, Kathrow discloses the act of finding equivalent contents

Art Unit: 2121

includes finding equivalent code in the portion of one version of the two versions and the portion of the other version of the two versions (abstract and figures 1-4).

As per claim 8, Kathrow discloses the act of finding equivalent contents includes finding equivalent data in the portion of one version of the two versions and the portion of the other version of the two versions (abstract and figures 1-4).

As per claim 10, Kathrow discloses the act of forming a match includes forming a match based on the results of both the act of finding equivalent contents and the act of finding equivalent structure (abstract and figures 1-4).

As per claim 11, Kathrow discloses A computer readable medium having instructions stored thereon for causing a computer to perform a method for comparing versions of a program in binary format, the method comprising (abstract and figures 1-4), finding equivalent contents in portions of two versions of the program (abstract and figures 1-4), finding equivalent structure in the portions of the two versions (abstract and figures 1-4) and forming a match when a portion of one of the two versions is an equivalence to a portion of the other of the two versions (abstract and figures 1-4).

As per claim 12, Kathrow discloses the act of finding equivalent contents includes finding equivalent code in the portion of one version of the two versions and the portion of the other version of the two versions (abstract and figures 1-4).

Art Unit: 2121

As per claim 13, Kathrow discloses the act of finding equivalent contents includes finding equivalent data in the portion of one version of the two versions and the portion of the other version of the two versions (abstract and figures 1-4).

As per claim 16, Kathrow discloses finding equivalent procedures in a first version and a second version (abstract and figures 1-4), finding equivalent portions of data in equivalent procedures (abstract and figures 1-4) and finding equivalent portions of code in equivalent procedures (abstract and figures 1-4).

As per claim 17, Kathrow discloses the act of finding equivalent procedures includes comparing information selected from a group consisting of name information, type information, and code information (abstract and figures 1-4).

As per claim 18, Kathrow discloses the act of finding equivalent portions of code includes finding equivalent portions of code based on a hash value, which is calculated from the instructions in the portions of code and the ordering of the instructions (abstract and figures 1-4).

As per claim 20, Kathrow discloses the method executes a desired combination of at least one of the act of finding the equivalent procedure (abstract and figures 1-4), the act of finding equivalent portions of data (abstract and figures 1-4) and the act of finding equivalent portions of code (abstract and figures 1-4).

2. Claims 1-5, 9, 14, 15 and 19 are allowed.

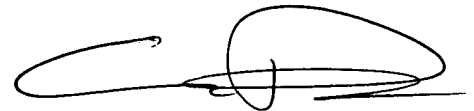
Art Unit: 2121

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Davis whose telephone number is (703) 305-3891. The examiner can normally be reached on Monday through Thursday from 8:00 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri, can be reached on (703) 305-0282. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7240.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

January 25, 2004

A handwritten signature in black ink, appearing to read 'G. Davis', with a large, stylized loop at the end.

GEORGE B. DAVIS

PRIMARY PATENT EXAMINER